

VIRGINIA WORKERS' COMPENSATION COMMISSION

**REPORT ON AUDIT
FOR THE YEARS ENDED
JUNE 30, 2010 AND 2011**



AUDIT SUMMARY

Our audit of the Virginia Workers' Compensation Commission found:

- proper recording and reporting of all transactions, in all material respects, in the Commonwealth Accounting and Reporting System,
- one matter involving internal control and its operations necessary to bring to management's attention; and
- an instance of noncompliance with applicable laws and regulations or other matters that is required to be reported.

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AUDIT FINDING AND RECOMMENDATION

Complete and Implement Information Security Program

The Virginia Workers' Compensation Commission (Commission) does not have a complete and implemented information security program. However, since our last review, the Commission allocated significant resources to improve its program and become compliant with the Commonwealth's Security Standards, SEC 501. As of this audit, the Commission is anticipating completing this project by early spring 2013.

We encourage the Commission to continue its effort to complete and implement its information security program. Without a complete and implemented program, the Commission cannot properly identify and manage risks associated with data confidentiality, integrity, and availability.

COMMISSION HIGHLIGHTS

Virginia Workers' Compensation Commission (Commission) administers the Virginia Workers' Compensation Act and its related funds. Three commissioners appointed by the General Assembly head the agency, and they appoint an Executive Director to handle the daily operations. Twenty-two deputy commissioners hold evidentiary hearings throughout the Commonwealth to determine rights and liabilities of parties under the Act. The Commission consists of the following departments: Judicial, Insurance, EDI/Quality Assurance, Financial Services, Information Systems, Claims Services, Correspondence Management, Customer Contact Center, Criminal Injuries Compensation Fund, Human Resources, Project Management Office, and Administration, and has 266 full-time employees.

The Commission uses the following funds to perform its responsibilities, which relate to program areas created and governed by specific statutes.

- The **Administrative Fund** pays the salaries, benefits, and other administrative expenses of the Commission. Funding comes from a workers' compensation tax assessed on both self-insured employers and insurance companies for insured employers with a maximum rate of 2.5 percent. Self-insured employers pay the tax based on a premium figure derived from their payrolls, while insurance companies pay a tax on all workers' compensation insurance premiums they receive from insured employers. The Commission sets this tax rate annually. The rate for fiscal years 2010 and 2011 was 2.25 percent.
- The **Uninsured Employer's Fund** provides benefits to injured workers of employers who did not secure adequate workers' compensation liability coverage. Funding comes from a workers' compensation tax assessed on self-insured employers and insurance companies for insured employers. The maximum statutory tax assessment rate is .25 percent and the Commission sets the actual tax rate annually. The General Assembly increased this maximum for a three year period to .50 percent. There was a sunset on the increase that expires on July 1, 2012. During the 2012 legislative session, the General Assembly extended the sunset to July 1, 2015. The rates for fiscal years 2010 and 2011 were .15 percent and .40 percent, respectively.
- The **Criminal Injuries Compensation Fund** pays unreimbursed expenses of victims who suffer personal, physical, or emotional injury or death because of a crime, or to qualified survivors of a victim. Funding comes from fines assessed and collected by State courts, restitution, and a federal Victim of Crime Act Grant. The Commission administers the fund. The fund also pays for sexual assault forensic exams for victims of sexual assault. The Director of the Fund manages the daily operations, while the Commissioners act as a governing board. The maximum per claim amount reimbursable by the Fund is \$25,000.

The cash balances at year end for each of these funds is shown in the following table.

<u>Fund Cash Balances at Year End</u>		
	<u>June 30, 2010</u>	<u>June 30, 2011</u>
Administrative Fund	\$20,292,812	\$24,771,669
Uninsured Employer's Fund	1,926,239	3,647,992
Criminal Injuries Compensation Fund	<u>11,547,291</u>	<u>12,878,477</u>
Total	<u>\$33,766,342</u>	<u>\$41,298,138</u>

Source: Commonwealth Accounting and Reporting System

In addition to the funds mentioned above, the Commission also adjudicates the **Virginia Birth-Related Neurological Injury Fund** by hearing cases from individuals seeking benefits from the fund and making the final eligibility determination. A separate board operates and manages this fund to provide benefits to babies born in the Commonwealth with birth-related neurological injuries, and none of the financial activities of this separate board are part of the accounting records of the Commission.

Fund support comes solely through annual fees collected from doctors and hospitals that operate in the Commonwealth. Board members of the fund, appointed by the Governor, usually make the determination of the award amount and the fund manager issues the check. The Code of Virginia requires the State Corporation Commission to obtain periodic actuarial reports that assess the viability of the fund.

FINANCIAL HIGHLIGHTS

Over half of the Commission's costs support processing, examining, and making rulings on claims from injured or ill workers. During calendar year 2010, the Commission handled over 137,945 reported on-the-job accidents, referred 12,592 cases for adjudication, and determined compensation awards on 83,911 claims. During calendar year 2011, the Commission handled over 135,813 reported on-the-job accidents, referred 13,204 cases for adjudication, and determined compensation awards on 78,726 claims. The Commission also provides judicial review for contested claims and issues written decisions at each level of adjudication.

The Commission administers the following two program areas.

- **Employment Assistance Services** determines eligibility, makes payments, and evaluates workers' compensation.
- **Financial Assistance for Supplemental Assistance Services** provides efforts to compensate eligible individuals who have suffered as the result of a crime.

The following table provides information on the original and final operating budget and actual expenses of the Commission by program.

Original and Final Budget and Actual Expenses

	2011			2010		
	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Expenses</u>	<u>Original Budget</u>	<u>Final Budget</u>	<u>Actual Expenses</u>
Employment assistance services	\$27,237,082	\$30,972,182	\$29,340,904	\$23,958,656	\$31,311,156	\$28,493,403
Financial assistance for supplemental assistance services	<u>8,005,621</u>	<u>10,466,099</u>	<u>6,277,238</u>	<u>5,145,575</u>	<u>7,115,575</u>	<u>6,076,237</u>
Total	<u>\$35,242,703</u>	<u>\$41,438,281</u>	<u>\$35,618,141</u>	<u>\$29,104,231</u>	<u>\$38,426,731</u>	<u>\$34,569,640</u>

Source: Commonwealth Accounting and Reporting System

As illustrated in the table below, the Commission spent approximately \$35.6 million during fiscal year 2011 and \$34.5 million during fiscal year 2010. The actual expenses are less than the final budget for fiscal years 2010 and 2011 due to timing of expenses in the Criminal Injuries Compensation Fund. Worker Compensation tax assessment and collections from the courts provide the primary funding for operations, and the Commission also receives federal funds from a formula grant. Due to the uncertainty and timing of the receipt of federal funds, the state appropriations cover the financial obligations until receipt of federal funds.

Personal services are approximately 47 percent of the expenses, which increased by \$1.9 million from fiscal year 2010 to 2011 due to the addition of more technology and data support positions, and a reorganization of the Commission. Contractual services are 24 percent of the expenses, which decreased approximately \$1.2 million between fiscal years due to the increase in personal services.

Expenses by Major Object Code

	<u>FY 2011</u>	<u>FY 2010</u>
Personal services	\$18,083,499	\$16,145,942
Contractual services	7,074,398	8,348,484
Continuous charges	1,239,599	1,098,633
Supplies and materials	169,415	181,339
Equipment	1,363,670	1,101,149
Property and improvements	12,784	-
Transfer payments	<u>7,674,777</u>	<u>7,694,093</u>
Total	<u>\$35,618,141</u>	<u>\$34,569,640</u>

Source: Commonwealth Accounting and Reporting System



Commonwealth of Virginia

Auditor of Public Accounts

Walter J. Kucharski
Auditor of Public Accounts

P.O. Box 1295
Richmond, Virginia 23218

June 27, 2012

The Honorable Robert F. McDonnell
Governor of Virginia

The Honorable John M. O'Bannon III
Chairman, Joint Legislative Audit
and Review Commission

We have audited the financial records and operations of the **Virginia Workers' Compensation Commission** (Commission) for the years ended June 30, 2010 and June 30, 2011. We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Audit Objectives

Our audit's primary objectives were to evaluate the accuracy of recorded financial transactions in the Commonwealth Accounting and Reporting System, review the adequacy of the Commission's internal controls, test compliance with applicable laws and regulations and review corrective actions of audit findings from prior year reports.

Audit Scope and Methodology

The Commission's management has responsibility for establishing and maintaining internal control and complying with applicable laws and regulations. Internal control is a process designed to provide reasonable, but not absolute, assurance regarding the reliability of financial reporting, effectiveness and efficiency of operations, and compliance with applicable laws and regulations.

We gained an understanding of the overall internal controls, both automated and manual, sufficient to plan the audit. We considered significance and risk in determining the nature and extent of our audit procedures. Our review encompassed controls over the following significant cycles, classes of transactions, and account balances.

- Revenues, including taxes and federal grants
- Expenditures
- Payroll
- Information System Security

We performed audit tests to determine whether the Commission's controls were adequate, had been placed in operation, and were being followed. Our audit also included tests of compliance with provisions of applicable laws and regulations. Our audit procedures included inquiries of appropriate personnel, inspection

of documents, records, and contracts, and observation of the Commission's operations. We tested transactions and performed analytical procedures, including budgetary and trend analyses.

Conclusions

We found that the Commission properly stated, in all material respects, the amounts recorded and reported in the Commonwealth Accounting and Reporting System. The Commission records its financial transactions on the cash basis of accounting, which is a comprehensive basis of accounting other than accounting principles generally accepted in the United States of America. The financial information presented in this report came directly from the Commonwealth Accounting and Reporting System.

We noted a certain matter involving internal control and its operation and compliance with applicable laws and regulations that require management's attention and corrective action. This matter is described in the section entitled "Audit Finding and Recommendation" and is repeated from the prior year.

Exit Conference and Report Distribution

We discussed this report with management on July 17, 2012. Management's response to the findings identified in our audit is included in the section titled "Commission Response." We did not audit management's response and, accordingly, we express no opinion on it.

This report is intended for the information and use of the Governor and General Assembly, management, and the citizens of the Commonwealth of Virginia and is a public record.

AUDITOR OF PUBLIC ACCOUNTS

MSM/alh



COMMONWEALTH of VIRGINIA

ROGER L. WILLIAMS
Chairman

WILLIAM L. DUDLEY, JR.
Commissioner

WESLEY G. MARSHALL
Commissioner

VIRGINIA WORKERS' COMPENSATION COMMISSION

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JAMES J. SZABLEWICZ
Chief Deputy Commissioner

VIVIAN R. GUIDT
Interim Executive Director

MARJORIE P. PLATT
Clerk

July 20, 2012

Mr. Walter J. Kucharski
Auditor of Public Accounts
P.O. Box 1295
Richmond, VA 23218

Dear Mr. Kucharski:

The Virginia Workers' Compensation Commission (Commission) appreciates your staff's effort to review the Commission's financial and information technology operations for fiscal years 2010 and 2011. The Commission is in agreement with the audit report and its findings.

We would, however, like to provide some additional facts related to our Information Security Program. In 2011 the Commission contracted with Assura, Inc., to assist with the implementation of this Program and to insure compliance with current state standards. Assura, Inc. is a well-recognized expert in the development of Information Security Programs and our contract provided for a completed program fully compliant with the state standards.

In March of 2012 the Commission was made aware of conflicts between our then agency Information Security Officer and Assura, Inc. which resulted in delays to this project. The Information Security Officer has since resigned his position and is no longer employed by the Commission. The Commission has renegotiated our contract with Assura, Inc. Assura, Inc. has provided a detailed timeline of deliverables to ensure that the Commission will be in full compliance prior to the commencement of the next audit.

The major portions of the foundation for the Information Security Program have been completed and we are working toward review and final approval. We anticipate that the major analysis and project work for compliance will be completed by the end of December 2012 with a recovery plan ready for implementation as of April 1, 2013. We will at that time invite you to again audit the program for compliance.

Thank you for this opportunity to review and comment on the draft audit report.

Sincerely,

A handwritten signature in black ink that reads "Vivian R. Guidt".

Vivian R. Guidt
Interim Executive Director

VIRGINIA WORKERS' COMPENSATION COMMISSION

(As of June 30, 2011)

COMMISSIONERS

William L. Dudley, Jr., Chairman

Roger L. Williams

Vivian Guidt, Interim Executive Director